

APPROVED – 2/15/07
VIRGINIA BOARD OF PHARMACY
MINUTES OF SPECIAL CONFERENCE COMMITTEE
INFORMAL CONFERENCE COMMITTEE

Monday, January 22, 2007
Fifth Floor
Conference Room 4

Department of Health Professions
6603 West Broad Street
Richmond, Virginia 23230

CALL TO ORDER: A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 9:00 a.m.

PRESIDING: Leo Ross, Committee Chairman

MEMBERS PRESENT: Bobby Ison

STAFF PRESENT: Cathy M. Reiniers-Day, Deputy Executive Director

BABAJINMI O. OYETAYO Babajinmi O. Oyetayo appeared to discuss allegations License #0202-204069 that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the December 20, 2006 Notice.

Charles Calton, Adjudication Specialist, was also present as staff for this conference.

Closed Meeting: Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Babajinmi O. Oyetayo. Additionally, he moved that Cathy Reiniers-Day and Charles Calton attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene: Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision: After consideration of the evidence and statements concerning the allegations, Mr. Ison moved, and the

Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 1.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Oyetayo unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Oyetayo within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

MARLENE A. SMITH
License #0202-011324

Marlene A. Smith appeared with Samuel W. Meekins, Jr., her attorney, to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the December 22, 2006 Notice

Mykl Egan, Adjudication Specialist, was also present as staff for this conference.

Closed Meeting:

Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Marlene A. Smith. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, to close this case as undetermined.

DEBORAH KOCINEC
License #0202-012657

Deborah Kocinec was scheduled to appear at 9:00 a.m., to discuss her compliance with the terms and conditions of her July 8, 2005 Order as stated in the November 9, 2006 Notice. The Committee proceeded in Ms. Kocinec's absence as the Notice dated November 9, 2006, and Letter dated December 19, 2006 rescheduling the informal, were mailed to Ms. Kocinec's legal address of record, both regular and certified mail, and both certified mail packages were signed as received.

Mykl Egan, Adjudication Specialist, was also present as staff for this conference.

Closed Session:

Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Deborah Kocinec. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, Mr. Ison moved, and the Committee voted 2-0 in favor of the motion, to offer a Consent Order to Ms. Kocinec adopting the findings of fact and conclusions of law, for the suspension of her license. Further, the Committee requested a Notice for a formal administrative hearing be sent to Ms. Kocinec with the Consent Order.

(This Consent Order shall be effective upon endorsement by Ms. Kocinec and the Board of the findings of fact,

conclusions of law, and terms of the Consent Order.)

ADJOURN:

With all business concluded, the meeting adjourned at 1:35 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

Leo H. Ross, Chair

Date

Babajinmi O. Oyetayo

Findings of Fact and Conclusions of Law:

- Babajinmi O. Oyetayo holds license number 0202-204069 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Mr. Oyetayo's practice as a pharmacist at Jai's Apothecary #2 ("Jai's"), Norfolk, Virginia, by his own admission:
 - Mr. Oyetayo violated § 54.1-3316(1) and (7) and § 54.1-3320(A)(6) of the Code and 18 VAC 110-20-270(C) of the Board of Pharmacy Regulations ("Regulations") in that, his recordkeeping was not accurate as he dispensed prescriptions to patients without placing his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction.
 - Mr. Oyetayo violated § 54.1-3316(1) and (7) of the Code and 18 VAC 110-20-240(B)(1) of the Regulations in that, his recordkeeping was not accurate as he failed to document the date prescriptions were filled.
 - Mr. Oyetayo violated § 54.1-3316(1) and (7) of the Code and 18 VAC 110-20-250(A)(3) of the Regulations in that he was unable to retrieve the dispensing history for prescriptions from the pharmacy's computer system.
 - Mr. Oyetayo violated § 54.1-3316(1) and (7) of the Code and 18 VAC 110-20-240(A)(4) of the Regulations in that he failed to maintain daily printouts or a verification log of prescriptions dispensed.
 - Mr. Oyetayo violated § 54.1-3316 (7) of the Code and 18 VAC 110-20-190(B)(1) of the Regulations in that he allowed a pharmacy technician to have a key to the pharmacy and dispensing area.
- Mr. Oyetayo stated to the Committee that he was attempting to assist the now-deceased owner of Jai's, in that due to his sudden illness, the owner was unable to practice. He further stated that he was concerned for the welfare of the pharmacy's customers, and that he only sporadically practiced at Jai's dispensing drugs.

Sanction

- No action was taken against Mr. Oyetayo's license.